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**IN THE SUPERIOR COURT OF THE STATE OF ARIZONA**  
**IN AND FOR THE COUNTY OF COCHISE**

MARY JENEA SANCHEZ, an individual,  
  
Petitioner,

vs.

BRENDA AGUILAR, in her official capacity  
as the City Clerk of the City of Douglas; and  
DAVID W. STEVENS, in his official capacity  
as the County Recorder for Cochise County,

Respondents.

TANYA C. DUARTE, an individual,

Real Party in Interest.

Case No. \_\_\_\_\_

**VERIFIED COMPLAINT FOR  
DECLARATORY AND INJUNCTIVE  
RELIEF**

**(Challenge to Legal Sufficiency of Recall  
Petition Pursuant to A.R.S. § 19-208.04)**

Petitioner brings this action for declaratory and injunctive relief, and hereby alleges as follows:

**INTRODUCTION**

1. This action challenges the legal sufficiency of the recall petition bearing the City of Douglas serial number RCM0511 (the "Recall Petition"), which seeks an election to recall Robert Uribe, the Mayor of the City of Douglas.

2. The Recall Petition and its constituent petition sheets and signatures do not comply with all applicable provisions of law. Specifically:

a. The official text of the recall, which consists of the date-and-time stamped copy of the petition serial number application, was not attached to the Recall Petition signature sheets

1 while in circulation, in violation of A.R.S. §§ 19-202.01(D) and -203(D).

2 b. A copy of the petition form was not submitted to the City Clerk at the time the  
3 serial number application was filed, in violation of A.R.S. § 19-202.01(B)–(C).

4 c. The text of the general statement stating the grounds of the demand of the recall  
5 contained false and misleading statements, in violation of A.R.S. § 19-203(A) and the Arizona  
6 Supreme Court’s holding in *Molera v. Reagan*, 428 P.3d 490 (Ariz. 2018).

7 **PARTIES, JURISDICTION, AND VENUE**

8 3. Petitioner Mary Jenea Sanchez is a citizen, resident, and qualified elector of the  
9 City of Douglas.

10 4. Respondent Brenda Aguilar is the City Clerk for the City of Douglas and is  
11 named solely in her official capacity. The City Clerk serves as the filing officer for all petitions  
12 seeking the recall of elected officers in the City of Douglas, and is responsible for issuing recall  
13 petition serial numbers, reviewing filed recall petition sheets and signatures for facial errors and  
14 deficiencies, and certifying the final disposition of recall petitions. *See* A.R.S. §§ 19-202.01(C),  
15 -203(A)(3), -208.01, -208.03, 121.01.

16 5. Respondent David W. Stevens is the County Recorder for Cochise County and is  
17 named solely in his official capacity. The Cochise County Recorder is the public officer  
18 responsible for verifying the voter registration status in Cochise County of individuals who sign  
19 recall petitions. *See* A.R.S. § 19-208.02.

20 6. Real Party in Interest Tanya Duarte is an individual who was the designated  
21 applicant for the Recall Petition on the petition serial number application filed with the City  
22 Clerk.

23 7. This Court has jurisdiction over this action pursuant to Article 6, § 14 of the  
24 Arizona Constitution and A.R.S. §§ 12-1801, 12-2021, and 19-208.04.

25 8. Venue for this action lies in Cochise County pursuant to A.R.S. § 12-401(16) and  
26 19-208.04(C).

27 **GENERAL ALLEGATIONS**

28 9. On or about January 11, 2019, Real Party in Interest filed with the City Clerk an

1 Application for Recall Petition Serial Number seeking the recall of Mayor Uribe. Upon  
2 information and belief, a copy of the recall petition form was not attached to the completed  
3 application at the time it was submitted to the City Clerk. The City Clerk thereupon issued the  
4 serial number RCM0511 to the Recall Petition.

5 10. The City Clerk's form for the Application for Recall Petition Serial Number  
6 instructed applicants to state in no more than 200 words the grounds for the demand of the recall.

7 11. Real Party in Interest stated the following grounds for the recall, among others:  
8 "Failure to follow City Charter in regards to accepting agenda requests from three council  
9 members as noted in article 2 section 15 of the Douglas Arizona Charter."

10 12. A true and correct copy of the Application for Recall Petition Serial Number  
11 bearing the date and time stamp affixed by the City Clerk is attached hereto as **Exhibit A**.

12 13. On or around February 26, 2019, the Committee filed with the City Clerk the  
13 Recall Petition, which purportedly contained 801 signatures on 61 petition sheets.

14 14. On April 5, 2019, the City Clerk issued a certification stating that the Recall  
15 Petition contained a number of valid signatures that equaled or exceeded the number of valid  
16 signatures of qualified electors in the City of Douglas required to permit an election to recall  
17 Mayor Uribe.

18 15. The Arizona Legislature has directed that "[c]onstitutional and statutory  
19 requirements for recall be strictly construed and that persons using the recall process strictly  
20 comply with those constitutional and statutory requirements." A.R.S. § 19-201.01.

21 16. Strict compliance "requires nearly perfect compliance with constitutional and  
22 statutory referendum requirements." *Comm. for Pres. of Established Neighborhoods v. Riffel*,  
23 213 Ariz. 247, 249 ¶ 6 (App. 2006).

24 **Objection No. 1: Failure to Attach Text of Recall to Petition Sheets.**

25 17. Since statehood, proponents of initiative or referendum measures have been  
26 required to attach to each petition sheet a copy of the full "title and text" of the law they are  
27 seeking to initiate or refer. *See* Ariz. Const. art. IV, pt. 1, § 1(9); A.R.S. §§ 19-121(A)(3), -  
28 121.01(A)(1)(a).

1           18.     In 2015, the Legislature extended a similar mandate to recall petitions, prescribing  
2     that “the time-and-date-marked [serial number] application . . . constitutes the official copy of  
3     the text of the recall and shall be used in all instances as the text of the recall.” A.R.S. § 19-  
4     202.01(D).

5           19.     In addition, A.R.S. § 19-203(D) states:

6           The filing officer’s time-and-date-marked copy of the application, including the  
7           general statement of the grounds for the recall, constitutes the full and correct  
8           copy of the recall text and is the only valid copy for circulation for signatures.  
9           Signatures that are collected with any copy of the recall text that is not a facsimile  
          of the time-and-date-marked copy with the complete text that is identical to the  
          time-and-date-marked copy issued by the filing officer are invalid.

10          20.     Upon the filing of a recall petition, the City Clerk is required to “perform the steps  
11     prescribed in § 19-121.01, subsection A.” A.R.S. § 19-208.01(A). Section 19-121.01(A)(1)(a)  
12     mandates the disqualification of all petition “sheets not attached to a copy of the complete title  
13     and text of the measure.”

14          21.     All signatures contained on petition sheets that were not attached to a copy of the  
15     time-and-date stamped serial number application while in circulation are void as a matter of law,  
16     and are not eligible for verification or certification by the County Recorder. *See* A.R.S. § 19-  
17     12.01(A)(1)(a), -203(D), -208.01(A).

18          22.     Upon information and belief, none of the petition sheets comprising the Recall  
19     Petition were attached to a copy of the time-and-date stamped serial number application while in  
20     circulation or at the time they were filed with the City Clerk.

21          23.     Accordingly, the Recall Petition and the signatures contained therein are legally  
22     insufficient, and a recall of Mayor Uribe is not eligible for placement on the election ballot.

23                 **Objection No. 2: Failure to Attach Copy of Petition Sheet to Petition Serial Number**  
24     **Application.**

25          24.     Before circulating a recall petition, a person must obtain a petition serial number  
26     from the filing officer. *See* A.R.S. § 19-202.01

27          25.     For a serial number to be properly issued, the completed serial number  
28     “application *and petition* shall be submitted as a single document to” the filing officer. A.R.S.

1 § 19-202.01(B) (emphasis added). "On receipt of the application *and petition*, the receiving  
2 officer shall assign a number to the petition. *Id.* § 19-202.01(C) (emphasis added).

3 26. Any petition signatures collected before a serial number has been properly and  
4 validly issued by the filing officer are void as a matter of law, and are not eligible for verification  
5 or certification by the County Recorder. *See* A.R.S. § 19-202.01(C), -204(B), -208.01(A), -  
6 121.01(A)(3)(c).

7 27. Upon information and belief, Real Party in Interest did not provide a copy of her  
8 petition form to the City Clerk at the time of filing her serial number application.

9 28. Because Real Party in Interest never obtained a valid and properly issued petition  
10 serial number, the Recall Petition and the signatures contained therein are legally insufficient,  
11 and a recall of Mayor Uribe is not eligible for placement on the election ballot.

12 **Objection No. 3: False and Misleading Statements in Grounds for Recall.**

13 29. Arizona law provides that "[a] recall petition shall contain a general statement of  
14 not more than two hundred words stating the grounds of the demand for the recall." A.R.S. § 19-  
15 203(A).

16 30. The Arizona Supreme Court has stated that "descriptive information included on  
17 petition signature sheets" will invalidate the petitions if "it is fraudulent or creates a significant  
18 danger of confusion or unfairness." *Save Our Vote, Opposing C-03-2012 v. Bennett*, 231 Ariz.  
19 145, 152 ¶ 26 (2013).

20 31. In stating the grounds for the recall, Real Party in Interest cited "failure to follow  
21 City Charter in regards to accepting agenda requests from three council members as noted in  
22 article 2 section 15 of the City of Douglas Arizona Charter."

23 32. Article 2, Section 15 of the Douglas City Charter, dealing with "special  
24 meetings," provides, in relevant part:

25 The Mayor, or Mayor Pro Tempore acting as Mayor, may call, or at the request of  
26 three Councilmembers shall call, a special meeting of the Council for a time not  
27 earlier than twenty-four hours after written notice is given to all members of the  
28 Council or the notice is left at their place of abode.

34. However, it was not until January 8, 2019 that Mayor Uribe received a request from a third councilperson, Ray Shelton, to schedule the special meeting.

**COUNT I**  
**Declaratory and Injunctive Relief**  
**(A.R.S. §§ 12-1831, *et seq.*; 12-1803, 19-208.04)**

38. Petitioner incorporates by reference the allegations contained in the foregoing paragraphs as if fully set forth herein.

1           41. As a result, the Recall Petition contains fewer than the minimum number of valid  
2 signatures required to qualify a recall of Mayor Uribe for placement on the election ballot.

3                                   **DEMAND FOR RELIEF**

4           **WHEREFORE**, the Petitioner demands relief in the following forms:

- 5           A. A declaration that the Recall Petition is legally insufficient and that a recall of  
6 Mayor Uribe may not be certified for placement on the election ballot.
- 7           B. An injunction pursuant to A.R.S. §§ 12-1801 and 19-208.04 that prohibits the  
8 Respondents from certifying or printing any election ballot that includes a  
9 measure to recall Mayor Uribe;
- 10          C. An award of Petitioner's attorney's fees against Real Party in Interest pursuant to  
11 A.R.S. §§ 12-348, the private attorney general doctrine, and any other applicable  
12 law; and
- 13          D. Such other relief as the Court deems necessary, equitable, proper, or just.

14 DATED this 15th day of April, 2019.

15                                   BALLARD SPAHR LLP

16  
17 By: /s/Daniel A. Arellano

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19 Daniel A. Arellano  
20 1 East Washington Street, Suite 2300  
21 Phoenix, AZ 85004-2555  
22 *Attorneys for Petitioner*  
23  
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**VERIFICATION**

I, Mary Jenea Sanchez, hereby state as follows:

1. I am a citizen, resident, and qualified elector of Douglas, Arizona and the Petitioner in this action.
2. I have read the foregoing Verified Complaint for Declaratory and Injunctive Relief and know the contents thereof.
3. To the best of my knowledge, information and belief, the information contained in the Verified Complaint is true and accurate, except as to those matters stated on information and belief, and as to those matters, I believe them to be true.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on April 15th, 2019.



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Mary Jenea Sanchez



# EXHIBIT A

**APPLICATION FOR RECALL PETITION SERIAL NUMBER**

**TO: CITY/TOWN CLERK**

**RECEIVED**

**JAN 11 2019**

City of Douglas  
City Clerk's Office

The undersigned intends to circulate and file a recall petition demanding the recall of:

Robert Uribe  
(Name)

Mayer City of Douglas  
(Title of Office Held)

The grounds of the recall are as follows: (State in not more than 200 words the grounds of the demand.)

Failure to follow City Charter in regards to accepting Agenda Requests from three Council Members as noted in article 2 section 15 of the City of Douglas Arizona Chart Causing Division amongst the Douglas City Council itself as well as amongst the city and the City Council, and city residents with the council, thereby impacting the operation of the city as well as creating a negative image for the com and lack of trust between our community and City Administration

I hereby make application for the issuance of an official serial number to be printed on each side of each signature sheet of the petition (please affix to lower right-hand corner).

Signature of Applicant

Tanya C Duarte

Printed Name of Applicant

2001 E 9th St

Address

Douglas AZ 85607

City

State

Zip

520-227-9420

Telephone Number

Name of Organization (if any)

Address

City

State

Zip

Telephone Number

Name of Officer and Title

Address

City

State

Zip

Telephone Number

Name of Officer and Title

Address

City

State

Zip

Telephone Number

Date of Application 01/11/2019

Signatures Required 569

Deadline for Filing 05/11/2019

Serial Number Issued RCM0511

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